

Introduced: 1/17/79
Referred: Judiciary

BY THE RULES COMMITTEE BY
REQUEST OF THE LEGISLATIVE
COUNCIL (for the Code Revision
Commission)

1 IN THE SENATE

2 SENATE BILL NO. 58

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 ELEVENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the uniform disposition of com-
7 munity property rights at death."

8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

9 * Section 1. AS 13 is amended by adding a new chapter to read:

10 CHAPTER 41. UNIFORM DISPOSITION OF COMMUNITY PROPERTY

11 RIGHTS AT DEATH.

12 Sec. 13.41.005. APPLICATION. This chapter applies to the dis-
13 position at death of the following property acquired by a married per-
14 son:

15 (1) all personal property, wherever situated,

16 (A) which was acquired as or became, and remained, com-
17 munity property under the laws of another jurisdiction; or

18 (B) all or the proportionate part of which was acquired
19 with the rents, issues, or income of, or the proceeds from, or in
20 exchange for, that community property; or

21 (C) traceable to that community property;

22 (2) all or the proportionate part of any real property situ-
23 ated in this state which was acquired with the rents, issues or income
24 of, the proceeds from, or in exchange for, property acquired as or which
25 became, and remained, community property under the laws of another
26 jurisdiction, or property traceable to that community property.

27 Sec. 13.41.010. REBUTTABLE PRESUMPTIONS. In determining whether
28 this chapter applies to specific property, the following rebuttable
29 presumptions apply:

1 (1) property acquired during marriage by a spouse of that
2 marriage while domiciled in a jurisdiction under whose laws property
3 could then be acquired as community property is presumed to have been
4 acquired as or to have become, and remained, property to which this
5 chapter applies; and

6 (2) real property situated in this state and personal prop-
7 erty wherever situated acquired by a married person while domiciled in
8 a jurisdiction under whose laws property could not then be acquired as
9 community property, title to which was taken in a form which created
10 rights of survivorship, is presumed not to be property to which this
11 chapter applies.

12 Sec. 13.41.015. DISPOSITION UPON DEATH. Upon death of a married
13 person, one-half of the property to which this chapter applies is the
14 property of the surviving spouse and is not subject to testamentary
15 disposition by the decedent or distribution under the laws of succession
16 of this state. The other half of the property to which this chapter
17 applies is the property of the decedent and is subject to testamentary
18 disposition or distribution under the laws of succession of this state.
19 With respect to property to which this chapter applies, the one-half of
20 the property which is the property of the decedent is not subject to the
21 surviving spouse's right to elect against the will.

22 Sec. 13.41.020. PERFECTION OF TITLE OF SURVIVING SPOUSE. If the
23 title to any property to which this chapter applies was held by the
24 decedent at the time of death, title of the surviving spouse may be
25 perfected by an order of the court or by execution of an instrument by
26 the personal representative or the heirs or devisees of the decedent
27 with the approval of the court. Neither the personal representative nor
28 the court in which the decedent's estate is being administered has a
29 duty to discover or attempt to discover whether property held by the

1 decedent is property to which this chapter applies, unless a written
2 demand is made by the surviving spouse or the spouse's successor in
3 interest.

4 Sec. 13.41.025. PERFECTION OF TITLE OF PERSONAL REPRESENTATIVE,
5 HEIR OR DEVISEE. If the title to any property to which this chapter
6 applies is held by the surviving spouse at the time of the decedent's
7 death, the personal representative or an heir or devisee of the decedent
8 may institute an action to perfect title to the property. The personal
9 representative has no fiduciary duty to discover or attempt to discover
10 whether any property held by the surviving spouse is property to which
11 this chapter applies, unless a written demand is made by an heir, de-
12 visee, or creditor of the decedent.

13 Sec. 13.41.030. PURCHASER FOR VALUE OR LENDER. (a) If a sur-
14 viving spouse has apparent title to property to which this chapter
15 applies, a purchaser for value or a lender taking a security interest in
16 the property takes his interest in the property free of any rights of
17 the personal representative or an heir or devisee of the decedent.

18 (b) If a personal representative or an heir or devisee of the
19 decedent has apparent title to property to which this chapter applies, a
20 purchaser for value or a lender taking a security interest in the prop-
21 erty takes his interest in the property free of any rights of the sur-
22 viving spouse.

23 (c) A purchaser for value or a lender need not inquire whether a
24 vendor or borrower acted properly.

25 (d) The proceeds of a sale or creation of a security interest
26 shall be treated in the same manner as the property transferred to the
27 purchaser for value or a lender.

28 Sec. 13.41.035. CREDITOR'S RIGHTS. This chapter does not affect
29 rights of creditors with respect to property to which this chapter

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applies.

Sec. 13.41.040. ACTS OF MARRIED PERSONS. This chapter does not prevent married persons from severing or altering their interests in property to which this chapter applies.

Sec. 13.41.045. LIMITATIONS ON TESTAMENTARY DISPOSITION. This chapter does not authorize a person to dispose of property by will if it is held under limitations imposed by law preventing testamentary disposition by that person.

Sec. 13.41.050. UNIFORMITY OF APPLICATION AND CONSTRUCTION. This chapter shall be so applied and construed as to effectuate its general purpose to make uniform the law with respect to the subject of this chapter among those states which enact it.

Sec. 13.41.055. SHORT TITLE. This chapter may be cited as the Uniform Disposition of Community Property Rights at Death Act.